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4 UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
5 AT TACOMA

6 HIMC CORPORATION, a Washington  
corporation,

7 Plaintiff,

8 v.

9 PREM RAMCHANDANI and Jane Doe  
10 Ramchandani; SHAI BAR LAVI and ANNA  
11 SACHS BAR-LAVI; AVI SIVAN and Jane  
Doe Sivan; AVRAHAM OVAIDIA and Jane  
12 Doe Ovaidia; and FIDELITY TRANSFER  
CO., a Nevada corporation,

13 Defendants.

Case No. C07-5342FDB

ORDER DENYING INDIVIDUAL  
DEFENDANTS' MOTION FOR  
STAY PENDING APPEAL

14 On November 25, 2008, the Court entered an order on cross-motions for summary judgment.  
15 The Order did not completely dispose of the case, because HIMC's cause of action against Fidelity  
16 Transfer Co. remains.

17 On November 26, 2008, the Individual Defendants filed notice of appeal, and on December 1,  
18 2008, the Ninth Circuit Court of Appeals Clerk entered a time schedule order.

19 The Individual Defendants now move in this Court for a stay pending appeal to maintain the  
20 status quo, rather returning the HIMC stock certificates, which, the Individual Defendants argue,  
21 would render the appeal moot.

22 Plaintiff opposes the motion, first arguing that the motion was incorrectly noted for too short  
23 a time frame under the rules; that the Individual Defendants did not file a motion to request such  
24 relief prior to filing notice of appeal, which appeal divests this Court of jurisdiction to grant the  
25 requested relief; and that if the Court of Appeals were to vacate, reverse, or modify this Court's

1 Order, and if later the Individual Defendants were successful on one of their counterclaims, new  
2 unrestricted securities could be issued, and the restricted securities would have to be surrendered in  
3 any event.

4 The Individual Defendants motion lacks merit, and this Court concludes that the subject  
5 restricted securities should be returned to HIMC by the Individual Defendants. ACCORDINGLY,

6 IT IS ORDERED: The Individual Defendants' Motion for a Stay Pending Appeal (Dkt #  
7 114) is DENIED.

8 DATED this 16<sup>th</sup> day of December, 2008.

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11 FRANKLIN D. BURGESS  
12 UNITED STATES DISTRICT JUDGE  
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